IN THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

BRENDA TOLBERT	§	
	§	
Plaintiff,	§	
	§	
V.	§	CIVIL ACTION NO. 4:11-CV-00107
	§	
RBC CAPITAL MARKETS	§	
CORPORATION N/K/A RBC CAPITAL	§	
MARKETS, LLC; RBC CENTURA	§	
BANK N/K/A RBC BANK (USA);	§	
RBC U. S. INSURANCE SERVICES, INC.;	§	
	§	
Defendants.	8	

NOTICE OF COLLATERAL ACTIONS AND REQUEST FOR JUDICIAL NOTICE

Plaintiffs, Brenda Tolbert, Joseph Neuhaus, Jr. and Lawrence Gift, Jr., file this Notice of Collateral Actions and Request for Judicial Notice, pursuant to FED. R. EVID. 201, and for cause would show the following:

Plaintiffs advise this Court and request that it take judicial notice of the Order Granting in Part and Denying in Part Defendants' Motion to Dismiss, entered on October 5, 2010, in Case No. C09-1804RSL, styled *Karl Leaverton v. RBC Capital Markets Corporation, a Minnesota corporation; Royal Bank of Canada, a Canadian corporation; Royal Bank of Canada US Wealth Accumulation Plan, an employee benefit plan; and John Does 1-5, individuals, in the United States District Court for the Western District of Washington, a true and correct copy of which is attached hereto as Exhibit "1" (finding the WAP to be a pension plan governed by ERISA), and the Reply Memorandum in Support of Defendants' Motion for Partial Summary Judgment on Plaintiff's Claim for Benefits under the Royal Bank of Canada US Wealth Accumulation Plan, filed on August 5, 2009, and Defendants' Supplemental Reply Brief Regarding Plaintiff's Claim for Benefits under the Royal Bank of Canada Wealth Accumulation Plan, filed September 28,*

2009 in Case No. CV08-06090 FMC(AGRx), styled Steven Benhayon v. Royal Bank of Canada, a Canadian company, business form unknown; RBC Wealth Management Company, formerly RBC Dain Rauscher, Inc., business form unknown; The Royal Bank of Canada US Wealth Accumulation Plan, formerly known as RBC Dain Rauscher Wealth Accumulation Plan; and Does 1 through 20, in the United States District Court for the Central District of California, true and correct copies of which are attached hereto as Exhibit "2" (stating that use of U.S. based workforce, not worldwide or Canadian employees, should be used in "ratio test" respecting the

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Court take judicial notice as requested, and for such other and further relief, either at law or in equity, general or special, to which they may show themselves justly entitled.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

WAP).

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2013, a true and correct copy of this document has been forwarded to all counsel of record through the Court's CM/ECF system.

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